

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
TIMBERLY HUGHES,  
Defendant.

Case No. 18-cv-05931-JCS

**ORDER DENYING WITHOUT  
PREJUDICE STIPULATION AND  
ADMINISTRATIVE MOTION AND  
SETTING CASE MANAGEMENT  
CONFERENCE**

Re: Dkt. Nos. 173, 174

After a bench trial, the Court previously found that the United States abused its discretion in setting penalties for Defendant Timberly Hughes. The Court therefore remanded for further administrative proceedings. Dkt. 171.


The United States has since recalculated Hughes's penalties, and the parties have now filed a stipulation to reopen the case and set a schedule for further briefing on that issue. Dkt. 173. The United States has also filed an administrative motion to file a declaration setting forth its new calculation, which was not included in the trial record because it did not exist at that time. Dkt. 174.

It is not obvious that the United States' proposal—to use new evidence not presented at trial in resolving what amounts to supplemental post-trial briefing—is permissible. At the very least, taking full briefing on the merits of the new calculation while the form of its presentation is in question may not be prudent. The parties' stipulation and the United States' administration motion are therefore DENIED WITHOUT PREJUDICE, and a case management conference will occur on January 6, 2023 at 2:00 PM via Zoom webinar to determine how to proceed, with potential options including but not limited to: (1) the parties' proposal to submit briefing on the merits while also litigating the manner in which the United States has presented its new

1 calculation; (2) motions for summary judgment or summary adjudication by either or both of the  
2 parties; (3) reopening discovery; and/or (4) setting a further bench trial.

3 **IT IS SO ORDERED.**

4 Dated: December 19, 2022

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6 JOSEPH C. SPERO  
Chief Magistrate Judge

United States District Court  
Northern District of California